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AUG 27 2004

**OFFICE OF PETITIONS**

In re Application of :  
Daniel Maddux : DECISION GRANTED-IN-PART  
Application No. 10/733,442 : ON PETITION  
Filed: December 12, 2003 :  
Attorney Docket No.: 244950US-8 :  
:

This is a decision on the petition filed May 19, 2004, requesting in effect, that a Notice to File Missing Parts in a Nonprovisional Application ("Notice") mailed March 19, 2004, be withdrawn.

The application was filed on December 12, 2003. However, on March 19, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of December 12, 2003 but figure 13 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figure 13 was filed on December 12, 2003. In support, the petition is accompanied by a copy of applicant's return postcard which lists "drawings 16 sheets". The petition is further accompanied by a copy of figure 13.

Applicant's postcard receipt is prima facie evidence that 16 sheets of drawings including figure 13 as described in the specification were received on December 12, 2003, but figure 13 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figure 13 was received on December 12, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted figure. The Notice was correct regarding the oath or declaration. The petition fee of \$130.00 is being credited to deposit account 15-0030.

Since figure 13 as described in the specification cannot be located in the Office, figure 13 supplied on May 19, 2004, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 12, 2003, using the 15 sheets of drawings submitted on December 12, 2003 and substitute figure 13 supplied on May 19, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

*Charlema R. Grant*

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